

# The Recognition of the Spanish Colonies by the Motherland

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## THE RECOGNITION OF THE SPANISH COLONIES BY THE MOTHERLAND<sup>1</sup>

Shortly after the usurpations of Napoleon in Spain, the protracted revolution against Spanish rule in America began. During the second and third decades of the nineteenth century the map of the Three Americas revealed the shadowy outlines of a new family of states. In 1822 the government of the United States announced its intention to recognize the independence of the Spanish-American colonies. Any prospect for the recognition of the revolted colonies by Spain that may have existed under the constitutional monarchy, however, was shattered by the overthrow of that government by French soldiers and by the restoration of the absolute king. On October 1, 1823, Ferdinand VII. issued a proclamation announcing that all acts of the constitutional government since March 7, 1820, were null and void.<sup>2</sup> On January 26, 1824, Ferdinand decreed that the authority which the constitutional government had granted certain commissioners to negotiate with the American revolutionists upon the basis that Spain was contemplating the acknowledgment of the Spanish-American colonies should be abrogated. In the same decree the king announced that any acts of those commissioners which were contrary to "the legitimate rights of the crown of Spain" and to "his royal sovereignty" should be null and void; and he ordered those commissioners immediately to return to the Spanish peninsula. The absolute king directed his viceroys, captain-generals, and governors in Spanish America to publish this significant decree and to take the proper measures to carry it out.<sup>3</sup>

<sup>1</sup> Originally this article was a chapter of a monograph entitled "The Recognition of the Spanish-American States" which the writer presented to the Congress of Bibliography and History that assembled at Buenos Aires in July, 1916, in commemoration of the centenary of the declaration of Argentine independence.

<sup>2</sup> *Colección Legislativa de España*, VII. 147-149.

<sup>3</sup> "El Rey" to Silvestre Collar (printed), January 26, 1824, Archivo General de Indias, Indiferente General, 146-1-18.

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During the rule of Ferdinand VII., the government of the United States—which had recognized the independence of several Spanish-American nations—made persistent efforts to influence the Spanish government in favor of recognition. In the instructions of Secretary of State Henry Clay to Alexander H. Everett, minister to Spain, on April 27, 1825, that secretary mentioned as a subject of “the highest importance” the war between Spain and her former colonies and maintained that the Spanish government ought to recognize the independence of those colonies by “a formal pacification”.<sup>4</sup> Accordingly Minister Everett soon urged the recognition of the colonies upon Spain’s secretary of state, Francisco Zea Bermúdez, but without avail. After Everett had informed that secretary that the American minister at St. Petersburg had been instructed to solicit the coöperation of Russia in the attempt to induce “the Spanish Government to put an end to the war by an acknowledgment of the independence of the colonies”, the Spanish diplomat again declared “in the most positive manner, the King’s unalterable resolution never to abandon his rights and to refuse all offers of mediation, or of amicable intervention, which should contemplate an acknowledgment of the independence of the new States”.<sup>5</sup> On January 20, 1826, Everett addressed to the Duke del Infantado, the new secretary of state, a confidential memorial concerning Spanish-American independence. In that memorial the American minister declared that when the independence of Spain’s colonies was “well established, it became a duty to regard and treat them as Sovereign Powers”. Everett argued that the Spanish colonies had “grown up into six or eight populous and powerful nations”; that a magnanimous act on the part of King Ferdinand would pacify the entire American continent; and that the recognition of Spanish-American independence would greatly benefit Spain.<sup>6</sup>

<sup>4</sup> *American State Papers, Foreign Relations*, V. 794.

<sup>5</sup> *Ibid.*, 796. On the representations of the United States concerning Spanish America at the court of Russia, see Moore, *A Digest of International Law*, I. 93, 94.

<sup>6</sup> *American State Papers, Foreign Relations*, VI. 1006–1014. Certain reflections of Everett upon the conduct of Juan Martín de Pueyrredón, who had been the Supreme Director of the United Provinces of La Plata, evoked a response from Pueyrredón which is found in *Documentos del Archivo de Pueyrredón*, II. 207–223, 277, 278.

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But these arguments did not convince the absolute king: on May 5, 1828, the government of Spain addressed to European powers a formal protest against the acknowledgment of the independence of the Spanish-American colonies.<sup>7</sup>

On September 29, 1833, Ferdinand VII. died of apoplexy. That king bequeathed the Spanish crown to the Infanta Isabella, the child of his marriage with María Cristina. Accordingly the latter became queen regent of Spain on behalf of her daughter; prominent liberals soon returned from exile, and the old ministry passed from power. In the belief that the accession of a new monarch was a favorable conjuncture, and in accordance with the wishes of his government, on February 12, 1834, C. P. Van Ness, Everett's successor, addressed a note to Martínez de la Rosa, who had become secretary of state, declaring that the United States wished to facilitate an adjustment of the differences between Spanish America and Spain.<sup>8</sup> On June 12, 1834, Martínez de la Rosa replied that the queen regent wished to end the family quarrel; she had accordingly authorized him to instruct Spain's ambassadors at Paris and London to afford any Spanish-American commissioners who might appear at those capitals such guarantees as they might desire, provided that they were authorized "to offer to Spain a just and honorable arrangement".<sup>9</sup> The American minister promptly transmitted a copy of that response to Washington.<sup>10</sup> On September 4, 1834, in accordance with the wishes of the queen regent, the Spanish secretary of state assured Van Ness that her Majesty's cabinet was ready to enter into "a frank negotiation" with commissioners from the Spanish-American states "to effect a definitive arrangement on principles of Justice and reciprocal advantage".<sup>11</sup> The government of the United States kept the leading Spanish-American nations informed of the

<sup>7</sup> "Protesta dirigida á las potencias extranjeras contra el reconocimiento de América en 5 de Mayo de 1828", Archivo General de Indias, Estado, América en General, 6.

<sup>8</sup> *British and Foreign State Papers*, XXV. 1026; Moore, *A Digest of International Law*, I. 95.

<sup>9</sup> *British and Foreign State Papers*, XXV. 1034, 1035.

<sup>10</sup> *Ibid.*, 1035.

<sup>11</sup> *Ibid.*, 1041.

progress of its negotiations concerning recognition.<sup>12</sup> When John Forsyth, the American secretary of state, received from Van Ness a copy of the note of Martínez de la Rosa, dated September 4, he addressed a communication to the Spanish-American diplomats at Washington informing them of the change in Spain's policy concerning recognition.<sup>13</sup> Forsyth also sent a similar communication to envoys of the United States at Spanish-American capitals transmitting the advice of the President that commissioners should be sent to Madrid to enter upon the "proffered negotiations".<sup>14</sup>

Meanwhile the initiative in the negotiations for recognition had been taken by Venezuela. In December, 1833, President Páez of Venezuela appointed General Mariano Montilla envoy to the court of Madrid with power to conclude a treaty of peace which would establish friendly relations between Venezuela and Spain; and, in a letter addressed to the queen regent, Páez declared that Venezuela offered her commerce to Spain upon the basis of the most favored nation.<sup>15</sup> In May, 1834, Montilla reached London, where in October, Spain's ambassador, the Marquis of Miraflores, granted him a passport to proceed to Spain.<sup>16</sup> But, on the eve of his journey to Madrid, Montilla was ordered to return to South America, and he soon left England for Venezuela.<sup>17</sup> A short time afterwards, the Venezuelan president appointed General Carlos Soublette to replace Montilla.<sup>18</sup> In April, 1835, Soublette held a conference at Madrid with Martínez de la Rosa, in which it became apparent that there were some delicate financial problems to be adjusted between Spain and her ancient colonies.<sup>19</sup>

When José María Calatrava became Spain's secretary of state

<sup>12</sup> *Memoria del Ministro de Relaciones Exteriores presentada al Congreso Nacional [de Chile] en 1834*, pp. 6-15.

<sup>13</sup> Moore, *A Digest of International Law*, I. 95, 96.

<sup>14</sup> *British and Foreign State Papers*, XXV. 1043, 1044.

<sup>15</sup> Páez, *Autobiografía* (Caracas, 1888), II, 403, 404.

<sup>16</sup> *Ibid.*, 407.

<sup>17</sup> *Documentos para los Anales de Venezuela desde el Movimiento Separatista de la Unión Colombiana hasta Nuestros Días, segundo período*, IV. 452, 453; Páez, *Autobiografía*, II. 407.

<sup>18</sup> Páez, *Autobiografía*, II. 407.

<sup>19</sup> *Ibid.*, 408-410.

in the ministry of Count Toreno, the Venezuelan envoy asked that secretary for an ultimatum concerning recognition. Accordingly, on November 4, 1835, Calatrava sent to Soublette the project of a treaty between Spain and Venezuela. Calatrava's project provided that Spain should recognize Venezuela as a sovereign and independent nation. Those two nations should conclude a treaty of commerce and navigation, embodying the principle of reciprocal advantages. The citizens of Spain and Venezuela should be considered reciprocally as citizens of the most favored nation. Venezuela should assume as a national obligation the debts contracted against her treasury by the Spanish government. All properties confiscated either by royalists or revolutionists during the revolutionary wars, which were still in possession of the confiscating party, should be immediately returned to their former owners, their heirs or representatives. For confiscated properties, which either government had disposed of, the former owners were to be indemnified. In addition, the contracting parties were to agree to a declaration that a treaty of commerce and navigation should be negotiated containing a provision that indigenous or manufactured products of Spain or Venezuela introduced in vessels of one party into the ports of the other should for twenty-five years be subject only to one-half of the duties levied upon the imports of the most favored nation. Calatrava suggested, however, that, if Venezuela would not accede to the last stipulation, it might be waived. In the meantime, the Cortes might authorize the government to conclude treaties with the new American states which should be based upon an acknowledgment of their independence.<sup>20</sup>

On November 7, Soublette informed Calatrava of his views concerning the proposed treaty. He declared that "with the exception of the article regarding the assumption of the debt contracted in Venezuela by the Spanish authorities while they occupied that country, and of the article concerning indemnification for properties sequestrated or confiscated from Spanish subjects which had been alienated, he believed that the treaty did not contain any provision which would preclude his approbation". However, he

<sup>20</sup> *Documentos para los Anales de Venezuela, segundo período*, IV. 472-475.



proposed five modifications of Calatrava's project: first, that his government would agree to recognize as a national obligation all debts contracted by the Spanish government in the former captaincy-general of Venezuela which were recorded in the books of the treasury on July 5, 1811; second, that all properties in the possession of his government which had been taken from Spanish subjects because of the revolutionary wars should be immediately restored to their owners, their heirs, or representatives; third, that the president of Venezuela would recommend Congress to authorize the restoration of properties upon which a sentence of confiscation had been passed, provided that those properties were still in the possession of the Venezuelan nation; fourth, that the Venezuelan president would recommend Congress to provide indemnity for confiscated properties that had been sold or alienated; fifth, that Venezuela and Spain would agree mutually to relinquish, for a term of years, a portion of the duties levied upon imports from either nation into the other, as a salve for reciprocal injuries supposedly sustained.<sup>21</sup>

But Secretary Calatrava refused to accede to these modifications; he still advocated his financial scheme, which, he declared, had been voluntarily enforced by Mexico since 1824. Still he avowed that her Majesty's government was ready to renew negotiations and to establish commercial relations with Venezuela even before "a formal treaty of reconciliation" was agreed to.<sup>22</sup> From London, on January 30, 1837, Soublette sent his last note to the Spanish secretary of state, declaring that with regard to debts and indemnities the cases of Venezuela and Mexico were not analogous, and affirming that he appreciated the desire of Spain's government to establish commercial relations with his country.<sup>23</sup> In the meantime, Mexico had authorized Miguel Santa María, her minister plenipotentiary at the court of London, to proceed to Madrid in order that he might initiate negotiations with Spain for the recognition of Mexican independence. In the instructions to Santa María his government reminded him of a law of

<sup>21</sup> *Ibid.*, 475, 476.

<sup>22</sup> *Ibid.*, 476.

<sup>23</sup> *Ibid.*, 476, 477.

May 11, 1826, which provided that the Mexican republic would not consider any proposition from Spain unless based upon the acknowledgment of independence.<sup>24</sup> From London, on June 14, 1835, Santa María addressed a note to the president of the Spanish council of state explaining the special commission with which he had been charged.<sup>25</sup> Evidently the response was favorable; for Santa María soon appeared in Madrid.

At this juncture—when the rupture with Soubllette had perhaps convinced Calatrava of the delicacy of the negotiations—the matter was submitted to the judgment of the Spanish legislature. On November 16, 1835, Regent Cristina made an address to the Cortes in which she spoke of the negotiations with the states of Spanish America in these words: "I have considered expedient for the interests of the nation and the throne, and indicative of the confidence with which the Cortes inspires me, to consult it upon an affair of such importance and transcendency, saving the prerogative of the crown".<sup>26</sup> In August, 1836, the regent was induced to proclaim that the constitution of 1812 was in force; Secretary Calatrava became the head of a new ministry. On November 7, 1836, Calatrava presented to the Cortes a communication concerning negotiations with the Spanish-American states. He declared that those states wished to be considered independent and that they desired Spain to renounce "all territorial or sovereign right" over them. As, according to the constitution, such action was not within the power of government, he had taken recourse "to the authority of the Cortes, so that it might declare what policy it considered expedient".<sup>27</sup> In the discussion of this message an Asturian, José Cango Argüelles, declared that this communication concerned the alienation of a very important portion of Spanish territory, and that various

<sup>24</sup> Bocanegra, *Memorias para la Historia de México Independiente*, II. 618; *Colección de Ordenes y Decretos de la Soberana Junta Provisional Gubernativa y Soberanos Congresos Generales de la Nación Mexicana*, IV. 34.

<sup>25</sup> Bocanegra, *Memorias*, II. 619.

<sup>26</sup> *Diario de las Sesiones de Cortes, estamento de ilustres próceres, legislatura de 1835 á 1836*, p. 8.

<sup>27</sup> *Diario de Sesiones de las Cortes Constituyentes, legislatura de 1836-1837*, I. 156, 157.

problems would have to be considered: military, and territorial, as well as diplomatic. Hence he proposed that the matter should be referred to a committee composed of persons possessing the wisdom and probity necessary for such "a delicate trust".<sup>28</sup> The Cortes accordingly referred the matter to a special committee composed of nine members.<sup>29</sup>

This committee "concerning treaties with the new states of America", whose chairman was Joaquín María Ferrer, a deputy from Guipúzcoa, presented a report to the Cortes on November 27, 1836. The following excerpts from that report suggest its dilemma:

"In the opinion of the committee, the honor and dignity of Spain demand that the Cortes should act generously in this important affair, and that considerations unworthy of her noble character should not be involved in the emancipation of her former colonies. This disinterestedness and the nobility of her proceedings will be the best means of perpetuating the relations which are destined to draw together peoples of the same origin. When the independence of the new American states is recognized in this manner, tranquillity will be established in those regions, any occasion for the renewal of civil discords will cease, and humanity will recover her rights.

"At various epochs the Cortes has expressed its opinion concerning the necessity and advantage of recognizing the independence of our former continental possessions in America; but the vicissitudes of which we have been the witnesses and victims have always found in the absolute government an obstacle to prevent that opinion from producing results as effective as the nation desired.

"The regret of the mother country on separating forever from her American children is natural and well-founded. But that sentiment is transformed into an agreeable emotion of national pride on considering that, during the brief period of three hundred years in which that large family has been ruled by the laws of Spain, its members have reached that stage of education and

<sup>28</sup> *Ibid*, 157.

<sup>29</sup> *Ibid*.



maturity which enables them to take leave of their mother and to begin their career as independent nations.

"In the light of those considerations, the committee has carefully considered all the documents presented by the secretary of state. That secretary, who was invited to attend its sessions, has neither reserved nor omitted any data or explanations which it considered necessary. The members of the committee are satisfied that the government of her Majesty has conducted these negotiations with the proper zeal and prudence".

In conclusion, the committee recommended to the consideration of the Cortes a single proposal, namely:—

"The general Cortes of the kingdom authorizes the government of her Majesty that—notwithstanding articles ten, one hundred and seventy-two, and one hundred and seventy-three of the political constitution of the monarchy promulgated at Cadiz in the year 1812—it may conclude treaties of peace and amity with the new states of Spanish America upon the basis of the recognition of their independence and the renunciation of all territorial or sovereign rights on the part of the motherland, provided that in other respects the government judges that neither the honor nor the national interests are compromised".<sup>30</sup>

This significant report was considered by the Cortes on December 1, 2, and 3, 1836. According to one speaker, when the momentous question was presented for discussion, a hush fell upon the Cortes.<sup>31</sup> Then several members arose to speak. In the first speech made concerning recognition Dionisio Váldes struck the quavering keynote of the discussion. He declared that every Spaniard should feel keenly on being compelled to recognize the independence of "so precious a part" of Spanish territory. "The events from 1823 to the present day", said Váldes, "have estranged those provinces more and more from the metropolis. We have not known how to secure the only terms which remained to us,—terms which nations more powerful have obtained from their colonies—thus securing greater advan-

<sup>30</sup> *Diario de Sesiones de las Cortes Constituyentes, 1836-1837, I. Apéndice al Número 40, 1, 2.*

<sup>31</sup> *Diario de sesiones de las Cortes Constituyentes, 1836-1837, I. 454.*



tages than they enjoyed with the sovereignty over those dominions". He argued that, as the lost territory could not be reconquered, Spain should attempt to secure control of Spanish-American commerce, as England obtained the commerce of the United States after recognizing her independence.<sup>32</sup> Gómez Acebo declared that the recognition of Spanish America should be announced in "the noblest and grandest terms". He wished the government to mention the commercial advantages which such recognition would bring to Spain.<sup>33</sup> Whereupon, the secretary of state expressed his opinion that the Cortes should proceed generously and should not demand a price for recognition. He suggested that perhaps the government might not be able to obtain commercial favors from the new states; for they had entered into treaties of commerce with other nations. "The preliminary step", said Calatrava, "is the recognition of independence and the negotiation of treaties of peace and friendship. As the government is not empowered to negotiate such treaties, it requests the necessary authorization. After this is granted, treaties of commerce will be negotiated, which will be subject to the approval of the Cortes".<sup>34</sup>

Joaquín María Ferrer then explained that the Cortes had been asked to formulate a policy because the Spanish constitution did not permit the government to make treaties with colonies which had been an integral part of the monarchy, and whose independence had not been acknowledged by Spain. In the course of a masterly analysis of the situation, Ferrer declared that Mexico was the only country in Spanish America which had respected the property rights of Spaniards; hence a treaty could most easily be negotiated with her.<sup>35</sup> Canga Argüelles—who had vigorously opposed measures which contemplated the acknowledgment of Spanish-American independence by the Cortes in 1823—now declared that no one doubted the necessity of such an acknowledgment.<sup>36</sup> On December 3, Francisco Luján, a

<sup>32</sup> *Ibid.*, 442, 443.

<sup>33</sup> *Ibid.*, 443.

<sup>34</sup> *Ibid.*, 444.

<sup>35</sup> *Ibid.*, 444, 445.

<sup>36</sup> *Ibid.*, 457.

deputy for Badajoz, declared: "The emancipation of the Americans is *de facto* accomplished; nations, like individuals, have their periods of vigor and strength: at present the Americans are in that stage. On our part, we should give to their separation a legal character; in order to legitimize what they now possess, and give to their countries the seal of stability which they need in order to terminate the ambitions and discords that ferment in their provinces."<sup>37</sup> Miguel Cabrera de Nevaes—who had advocated recognition of the colonies and the formation of an Hispanic confederation in 1822—declared that the Spanish-American "countries were *de facto* independent"; this they owed to themselves: "to be independent *de jure* they will owe to us. The independence of the American colonies was written in the book of destiny: three thousand leagues of water and the innate love of the Spaniards for liberty,—those are the causes which have contributed to the separation,—and not the impotence of the Spanish nation".<sup>38</sup> A deputy for Cadiz, Cayetano Cardero, declared that recognition was a work of justice, and asked that the Spaniards of both hemispheres should cease their discord. He proposed that recognition should take place at once: "The province of Cadiz, like the rest of the peninsula, stretches out her arms toward the Americans to say to them: 'Come, friends and brothers, come to our arms and receive the homage of fraternity and of friendship; but never forget that European Spain was your mother country, that to her you owe your being.' I hope that the Spanish-Americans will keep this in mind, and that they will always show themselves grateful to the Spaniards, their fathers".<sup>39</sup>

On December 3, 1836, the Cortes took a vote upon the committee's proposal, which was approved unanimously:—one hundred and forty members voted in favor of it.<sup>40</sup> A few other members, who were not present when that action was taken, later indicated their approval.<sup>41</sup> On December 4, the decree regarding the recognition of the Spanish-American states was

<sup>37</sup> *Ibid.*, 463.

<sup>38</sup> *Ibid.*, 465.

<sup>39</sup> *Ibid.*, 467.

<sup>40</sup> *Ibid.*, 469.

<sup>41</sup> *Ibid.*, 474, 477.

read in the Cortes and found to conform to the minutes. That decree quoted exactly the words of the single proposal made by the special committee on November 27, 1836.<sup>42</sup> In this manner the Spanish legislature suspended those articles of the constitution which prohibited the alienation of national territory and authorized the executive department of the government to negotiate treaties with the Spanish-American states acknowledging their independence. The negotiations between Calatrava and Santa María soon reached a successful termination: on December 28, 1836, those diplomats signed a "treaty of peace and amity" between Mexico and Spain, which was composed of eight articles.

The first article of this treaty provided that her Majesty the queen regent of Spain, in the name of her august daughter, Doña Isabella II., recognized the republic of Mexico as "a free, sovereign, and independent nation, composed of the states and countries specified in her constitutional law". It was declared that the dominions of Mexico comprised the former viceroyalty of New Spain, the captaincy-general of Yucatan, the commandancies of the eastern and the western interior provinces, lower and upper California, with the annexed territories and adjacent islands, which were actually in her possession. The queen regent renounced, "as well for herself, as for her heirs and successors, all pretensions to the government, property, and territorial right of those states and countries". The second article of the treaty provided that there should be a general and complete amnesty for all Spaniards and Mexicans, without regard to the party to which they had belonged during the revolutionary wars and dissensions: this amnesty was to be considered as a proof of her Catholic Majesty's desire to cement "upon principles of justice and beneficence the firm friendship, peace, and union" which were henceforth to be maintained between her subjects and Mexican citizens. Article three provided that the citizens and subjects of both nations were to preserve their right "to claim and to obtain justice and full satisfaction for the debts *bona fide* contracted with each other". Article four declared that the contracting powers had agreed to conclude as soon as possible "a treaty of commerce

<sup>42</sup> *Colección Legislativa de España*, XXI. 584, 585.



and navigation based upon the principle of reciprocal advantages for the two countries". Article five provided that the citizens of her Catholic Majesty and citizens of the Mexican republic should be considered reciprocally as citizens of the most favored nations, except in cases when mutual concessions were agreed upon. Article six provided that Spanish subjects and Mexican citizens in the dominions of Mexico or Spain respectively should be protected in their persons and properties, and that they should be exempt from forced service in the army or navy and from all taxes not paid by the citizens of said states. Similarly, with regard to the administration of justice, they were to be treated like citizens of the respective nations. Article seven stated that, as in 1824, the government of Mexico had assumed the debts incurred by Spain in the former viceroyalty, and as there did "not take place in that republic any confiscation of property belonging to Spanish subjects", Mexico was released of all responsibility on that score. The last article provided that the ratifications of the treaty should be exchanged at Madrid within nine months.<sup>43</sup> On December 29, 1836, a royal decree was issued stating that Spain considered Mexico as "a friendly power", and announcing that the principal negotiations for "the reconciliation of Spain and Mexico" had terminated successfully. This decree also announced that neither Spain nor her subjects would undertake any hostilities against Mexico or her citizens; that Mexicans in Spain should be considered as subjects of a friendly power; and that Mexican merchant vessels should be admitted to Spanish ports as the vessels of a friendly nation.<sup>44</sup>

The government of Mexico had followed Santa María's negotiations with much interest. On August 27, 1826, the Mexican Congress issued a decree providing that commercial relations with Spain were to be permitted upon a basis of reciprocity.<sup>45</sup> In

<sup>43</sup> De Olivart, *Colección de los Tratados, Convenios, y Documentos Internacionales celebrados por Nuestros Gobiernos desde el Reinado de Doña Isabel II hasta Nuestros Días*, I. 110-112; *Tratados y Convenciones concluidos y ratificados por la República Mexicana*, I. 396-400.

<sup>44</sup> *Colección Legislativa de España*, XXI. 597, 598.

<sup>45</sup> Dublan y Lozano, *Legislacion Mexicana ó Colección completa de las Disposiciones Legislativas expedidas desde la Independencia de la República*, III. 225.



February, 1837, Carlos Bustamante prematurely announced to Congress that Spain had acknowledged Mexico's independence, and declared that a grievous pretext for agitation had thus been removed. "I thank Heaven", he exclaimed, "because it has permitted me to see this grand day, and because providence has preserved me so that I might outlive this great event"!<sup>46</sup> On April 28 Luis G. Cuevas, the minister of foreign relations, announced to Congress that he had received the treaty between Mexico and Spain: he called attention to the fact that the queen regent had recognized fully and without restrictions "the Mexican Republic as a free, sovereign, and independent nation", renouncing for herself, as well as for her successors, "all pretensions to the government, property, and territorial rights" of that republic.<sup>47</sup> As the Mexican Congress approved the treaty, on May 3, President Anastasio Bustamante announced that he had "ratified, accepted, and confirmed" it.<sup>48</sup> The treaty was formally approved by the queen regent of Spain on November 14, 1837,<sup>49</sup> ratifications being exchanged at Madrid on the same day, and the ratified treaty was published in Mexico City on March 4, 1838.<sup>50</sup> This was the first case in which the Spanish monarchy acknowledged the independence of a state that had been erected within the limits of her former colonial empire in the New World.

The recognition of Mexico was soon followed by measures on the part of other Spanish-American states which indicated their desire to foster commercial relations with Spain. On March 30, 1837, at the instance of the Congress of Venezuela, General Soublette—who was acting as the chief executive of that state—promulgated a decree declaring that Venezuela would admit Spain's merchant vessels into her ports.<sup>51</sup> Further, on March 13, 1838, Soublette issued another decree providing that Spanish vessels which entered Venezuela's harbors should pay no higher

<sup>46</sup> Olavarría y Ferrari, *México Independiente* (volume four in *México á Través de los Siglos*), 389.

<sup>47</sup> Bocanegra, *Memorias*, II. 746.

<sup>48</sup> Dublan y Lozano, *Legislación Mexicana*, III. 464, 465.

<sup>49</sup> *Colección Legislativa de España*, XXIII. 328.

<sup>50</sup> Olavarría y Ferrari, *México Independiente*, see note on p. 394.

<sup>51</sup> *Recopilación de Leyes y Decretos de Venezuela*, I. 412.

dues than Venezuelan vessels.<sup>52</sup> Those measures were soon imitated by New Granada and Ecuador, while Chile issued decrees of a less liberal character, admitting Spanish vessels into her ports for a limited period upon the same terms as neutral vessels.<sup>53</sup> The Spanish government responded to these South-American overtures with reciprocal decrees.<sup>54</sup> In the words of Goñi: "These decrees . . . had as their object to admit into Spanish and American ports, the merchant vessels of each nation, in certain cases with the privileges of neutral vessels, in other cases with the privileges of the most favored nations".<sup>55</sup> Thus the way was made smooth for the recognition of other Spanish-American nations by Spain.

As the treaties which Spain negotiated with other Spanish-American republics during the following years resembled the Spanish-Mexican treaty, they will be considered in less detail. On February 16, 1840, the Spanish secretary of state, Evaristo Perez de Castro y Colmera, and Pedro Gual, envoy plenipotentiary of Ecuador at the court of Spain, signed a "treaty of peace, amity, and recognition". The first article of the treaty declared that her Catholic Majesty under the authority of the decree of the Cortes, dated December 4, 1836, renounced forever on behalf of herself and her successors the sovereignty over the territory formerly known as the presidency of Quito. By article two her Catholic Majesty acknowledged Ecuador as "a free, sovereign, and independent nation". Article three concerning amnesty resembled article two of the Mexican treaty. Article four regarding private debts repeated the terms of the third article of the Mexican treaty. Article five provided that Ecuador should assume the debts incurred by Spain for the presidency of Quito until 1822. Article six provided that all properties of the citizens of either state that had been confiscated by the other state during the revolutionary war should be immediately and freely returned to their former owners, their heirs, or legitimate representatives. Article eight

<sup>52</sup> *Ibid.*, 452.

<sup>53</sup> Goñi *Tratado de las Relaciones Internacionales de España*, pp. 261-263; De Olivart, *Tratados de España*, III. 196, 197, 201.

<sup>54</sup> De Olivart, *Tratados de España*, III. 192-216.

<sup>55</sup> Goñi, *Tratado de las Relaciones Internacionales*, p. 210.

provided that indemnities should be paid for confiscated goods which had been sold or alienated. Article seventeen provided that the two contracting parties would soon conclude a treaty of commerce and navigation based upon the principle of reciprocal advantages.<sup>56</sup> The ratifications of this treaty were exchanged at Madrid on October 30, 1841.<sup>57</sup>

A short time after the treaty was signed between Spain and Ecuador, Chile sent an envoy to Madrid who was directed to secure an explicit acknowledgment of Chilean independence,<sup>58</sup> but the treaty which he negotiated with the Spanish secretary of state did not receive the sanction of his government.<sup>59</sup> Eventually, on April 25, 1844, Luís Gonzalez Brabo, Spain's secretary of state, and General José Manuel Borgoña, the plenipotentiary of Chile, signed at Madrid "a treaty of recognition, peace, and perpetual amity". Thus, in accordance with the decree of the Cortes dated December 4, 1836, Queen Isabella acknowledged Chile as "a free, sovereign, and independent nation" and renounced her claims to Chilean territory. The provisions regarding the collection of private debts were the same as those in the Mexican treaty. With regard to the public debt, article four of this treaty stipulated that, as the Chilean republic by a law of November 17, 1835, had voluntarily assumed the debts contracted by the Spanish government in the captaincy-general of Chile, as well as the debts of the Chilean revolutionary governments, that law was to be considered as being embodied in the treaty.<sup>60</sup> The ratifications of this treaty were exchanged at Madrid on September 25, 1845.<sup>61</sup>

On March 30, 1845, there was signed at Madrid by Spain's secretary of state, Francisco Martínez de la Rosa and Alejo Fortique, Venezuela's minister plenipotentiary to Great Britain,

<sup>56</sup> De Olivart, *Tratados de España*, I. 143-150.

<sup>57</sup> *Colección Legislativa de España*, XXVII. 902.

<sup>58</sup> Barros Arana, *Un Decenio de la Historia de Chile*, I. 470-477.

<sup>59</sup> *Memoria del Ministro de Relaciones Exteriores presentada al Congreso Nacional en 1843*, p. 2.

<sup>60</sup> De Olivart, *Tratados de España*, I. 352-355; Bascañan Montes, *Recopilación de Tratados de Chile*, I. 132-138.

<sup>61</sup> *Colección Legislativa de España*, XXXV. 264; Bascañan Montes, *Tratados de Chile*, I. 138, 139.



a "treaty of recognition, peace, and amity". In accordance with the decree of the Cortes of December 4, 1836, Queen Isabella, for herself and her heirs, renounced the sovereignty over the territory formerly included in the captaincy-general of Venezuela. She acknowledged the republic of Venezuela as a "free, sovereign, and independent nation". The article concerning private debts repeated the terms of the Mexican treaty. Article five stipulated that Venezuela should assume as a national obligation the legitimate debt which Spain had incurred within the former captaincy-general. Confiscated properties belonging to the citizens of either contracting party were to be returned to their owners or heirs. Article fifteen provided that the contracting parties would soon negotiate a treaty of commerce. The ratifications of this treaty were exchanged at Madrid on June 22, 1846.<sup>62</sup>

On July 21, 1847, Joaquín Francisco Pacheco, Spain's secretary of state, and José María Linares, envoy of Bolivia, signed a treaty of "recognition, peace, and amity." By that treaty Queen Isabella II., in accordance with the decree of the Cortes, dated December 4, 1836, solemnly renounced for herself and her successors the sovereignty over the region formerly known as upper Peru. She acknowledged Bolivia as a "free, sovereign, and independent nation". Article four repeated the provision concerning private debts that first appeared in the Mexican treaty. As Bolivia had, by a law of November 11, 1844, voluntarily assumed the debts which Spain had incurred in upper Peru before the battle of Ayacucho, article five of the treaty stipulated that this law should be considered as an integral part of the treaty. Provisions were also made for the return of the properties of citizens or subjects of one of the contracting parties which had been confiscated by the other party. It was agreed that the two nations would soon proceed to conclude a treaty of commerce and navigation based upon the principle of reciprocal advantages.<sup>63</sup> The ratifications of this treaty were exchanged at Madrid on February 12, 1861.<sup>64</sup>

<sup>62</sup> De Olivart, *Tratados de España*, I. 368-372; *Colección de Tratados Públicos de Venezuela*, pp. 107-111; *Recopilación de Leyes y Decretos de Venezuela*. II. 296.

<sup>63</sup> De Olivart, *Tratados de España*, IV. 188-193.

<sup>64</sup> *Colección Legislativa de España*, LXXXV. 643.



Early in 1857, Juan Bautista Alberdi, the political philosopher who was acting as envoy extraordinary and minister plenipotentiary of the Argentine Confederation to the courts of London and Paris, initiated negotiations for the acknowledgment of Argentine independence by Spain.<sup>65</sup> On July 9, 1858, Alberdi and Saturino Calderón Collantes, Spain's secretary of state, signed at Madrid a treaty of "recognition, peace, and amity". In accordance with the decree of the Cortes dated December 4, 1836, Queen Isabella acknowledged the Argentine Confederation as a "free, sovereign, and independent nation", and renounced, for herself and her successors, the sovereignty over the territory of that confederation. In this convention the terms of the Mexican treaty concerning private debts were again repeated. Article four provided that the Argentine Confederation should assume as a consolidated debt of the state the obligations which the Spanish government had contracted within her territories before the creation of the provisional junta of May 25, 1810. Confiscated properties were to be restored to their owners, or their heirs. It was provided that until the contracting parties concluded a commercial treaty, each would reciprocally treat the subjects or citizens of the other party on the basis of citizens of the most favored nation. Article seven of the treaty provided that the nationality of the children of Spaniards and of Argentine citizens born in the respective territories of the other party should be determined according to the Spanish constitution and the law of Argentina.<sup>66</sup> The ratifications of this treaty were exchanged at Madrid on June 27, 1860.<sup>67</sup> After the defeat of the soldiers of Urquiza by General Mitre at the battle of Pavón, like other diplomatic agents of the government which had been seated at Paraná, Alberdi was deprived of his post. The government of the Argentine Republic—which had its capital at Buenos Aires—looked with disfavor upon article seven of Alberdi's treaty, which virtually provided that children of Spaniards born in Argentina

<sup>65</sup> Alberdi, *Obras Completas*, VI. 85.

<sup>66</sup> De Olivart, *Tratados de España*, IV. 90-94.

<sup>67</sup> *Colección Legislativa de España*, LXXXIII. 617; Cf. *Registro Oficial de la República Argentina*, IV. 269-271.

should be Spanish citizens,<sup>68</sup> and in September, 1863, its agent negotiated a similar treaty in which the objectionable clause concerning citizenship was modified.<sup>69</sup>

As early as 1853 a treaty of recognition was negotiated at Madrid by an envoy of Peru, but the Peruvian government objected to certain articles of that treaty and declined to sanction it.<sup>70</sup> Subsequently differences between Peru and Spain because of the claims of Spanish subjects for indemnities for injuries suffered by them during the war for independence led to the seizure of the Chincha Islands by Spain. The hostilities between Spain and Peru which resulted from this action were temporarily terminated by a treaty which was signed at Callao on January 27, 1865, by the Spanish admiral, José Manuel Pareja, and General Manuel Ignacio de Vivanco. The Vivanco-Pareja treaty, which was styled "a preliminary treaty of peace and friendship", was a virtual acknowledgment by Spain of the independence of Peru; for the ratifications were exchanged at Madrid on April 23, 1865. The treaty provided that Peru should commission a minister to the court of Madrid who would be authorized to negotiate a treaty of "peace, amity, navigation, and commerce", similar to the treaties negotiated between Spain and other American republics. It also stipulated that the proposed commercial treaty would establish the bases for the indemnification of Spain's subjects who had been financially injured during the wars for independence.<sup>71</sup>

Several years after the ratification of the Spanish-Peruvian treaty, Colombia, Paraguay, and Uruguay negotiated treaties with Spain. After a treaty had failed of ratification by Colombia because of a clause which granted to Spain the privileges conceded

<sup>68</sup> Alberdi: *Obras Completas*, VI. 110-115; *Archivo del General Mitre*, XIII. 53, 54.

<sup>69</sup> *Registro Oficial de la República Argentina*, V. 96-98. See further Alberdi's defense in *Obras Completas*, VI. 219-266, entitled "La Diplomacia de Buenos Aires y los Intereses Americanos y Europeos en el Plata."

<sup>70</sup> *Memoria que presenta el Ministro de Estado en el Departamento de Relaciones Exteriores y Culto al Congreso nacional, de 1862*, pp. 7-13. The project of the treaty is found in *ibid.* "Documentos sobre los asuntos de España" (unpaged).

<sup>71</sup> De Olivart, *Tratados de España*, V. 167-169; *Colección Legislativa de España*, XCIII. 357.

to the most favored nation in regard to an interoceanic transit,<sup>72</sup> on January 30, 1881, the ambassador of King Alfonso XII. of Spain at Paris and the envoy extraordinary and minister plenipotentiary of Colombia at that capital signed a treaty of "peace and amity". Unlike many of the treaties which had been negotiated with other South-American states, this treaty contained no provision concerning the assumption of Spanish debts. However, it contained a provision that the citizens of each contracting party should reciprocally enjoy in the dominions of the other party all the privileges of citizens of the most favored nation.<sup>73</sup> The ratifications of this treaty were exchanged on August 12, 1881.<sup>74</sup> On September 10, 1880, the chargé d'affaires of Alfonso XII. in Argentina and the chargé d'affaires of Paraguay at Buenos Aires signed a treaty of "peace and amity" between Spain and Paraguay, which resembled the treaty between Spain and Colombia.<sup>75</sup> The ratifications of the Paraguayan treaty were exchanged on April 8, 1882.<sup>76</sup> Although commercial relations were soon established between Spain and Uruguay, and although a treaty was negotiated between these two nations in 1841,<sup>77</sup> yet it was not until October 9, 1882, that the ratifications of a definitive treaty of "peace and recognition" were exchanged.<sup>78</sup>

As the federation of Central America—which was formed shortly after the dissolution of the Mexican empire—had broken into five fragments, Spain recognized the independence of the Central American states by several treaties which ordinarily contained stipulations concerning debts and commerce resembling those in treaties with the South-American republics. The independence of Costa Rica was acknowledged by Spain in a treaty of "recognition, peace, and amity" which was signed at Madrid on May 10,

<sup>72</sup> Uribe, *Anales Diplomáticos y Consulares de Colombia*, IV. 81, 82.

<sup>73</sup> De Olivart, *Tratados de España*, VIII. 147, 148; Cadena, *Colección de Tratados Públicos de los Estados Unidos de Colombia*, I. 159, 160.

<sup>74</sup> *Colección Legislativa de España*, CXXVIII. 103.

<sup>75</sup> De Olivart, *Tratados de España*, VIII. 127, 128.

<sup>76</sup> *Colección Legislativa de España*, CXXVIII. 571.

<sup>77</sup> De Olivart, *Tratados de España*, III. 193, 194; Goñi, *Tratado de las Relaciones Internacionales*, p. 262.

<sup>78</sup> De Olivart, *Tratados de España*, VIII. 253-260; *Colección Legislativa de España*, CXXIX. 1116.



1859;<sup>79</sup> the ratifications of that treaty were exchanged on December 21 following.<sup>80</sup> The independence of Nicaragua was acknowledged by Spain in a treaty of "peace and recognition" signed at Madrid on July 25, 1850.<sup>81</sup> The ratifications of the Spanish-Nicaraguan treaty were exchanged on July 24, 1851.<sup>82</sup> The independence of El Salvador was acknowledged by Spain in a treaty of "recognition" signed at Madrid on June 24, 1865;<sup>83</sup> the ratifications of that treaty were exchanged on June 15, 1866.<sup>84</sup> The independence of Guatemala was acknowledged by Spain in a treaty of recognition signed at Madrid, May 29, 1863.<sup>85</sup> The ratifications of the Spanish-Guatemalan treaty were exchanged on June 20, 1864.<sup>86</sup> The independence of Honduras was acknowledged by Spain in a treaty of "peace and amity" signed at Guatemala City on November 17, 1894;<sup>87</sup> the ratifications of that treaty were exchanged on August 28, 1895.<sup>88</sup>

It is clear that Spain was loath to admit that she had irretrievably lost her magnificent colonial empire upon the American continent. The absolute king was not inclined to yield to the influence of the government of the United States which advocated an acknowledgment of the independence of the new American nations. Not until the age of Isabella II. did Spain decide to relinquish the titular sovereignty over Spanish America. At this juncture there returned to power a number of liberal statesmen—as Martínez de la Rosa, Canga Argüelles, and Joaquín de Ferrer—who had considered the acknowledgment of the independence of the Spanish-American states more than a decade earlier. When the statesmen of Spain reluctantly took the decision to recognize the Spanish colonies, they were influenced by commercial motives, by the fact that other important nations had

<sup>79</sup> De Olivart, *Tratados de España*, II. 34-39.

<sup>80</sup> *Colección Legislativa de España*, LI. 405.

<sup>81</sup> De Olivart, *Tratados de España*, II. 46-51.

<sup>82</sup> *Colección Legislativa de España*, LIII. 493.

<sup>83</sup> De Olivart, *Tratados de España*, V. 215-219.

<sup>84</sup> *Colección Legislativa de España*, XCV. 670.

<sup>85</sup> De Olivart, *Tratados de España*, V. 22-26.

<sup>86</sup> *Colección Legislativa de España*, XCI. 860.

<sup>87</sup> De Olivart, *Tratados de España*, XI. 155-157.

<sup>88</sup> *Ibid.*, 155.



acknowledged the independence of these colonies, and by the conviction that they should cultivate friendly relations with the Spanish-American nations. By fifteen treaties negotiated from 1836 to 1895 Spain recognized the independence of her former colonies upon the American continent. By the exchange of ratifications with Guatemala the Spanish government finally concluded the series of negotiations which was authorized by the significant decree of the Cortes, dated December 4, 1836. What Nevares had designated as *de jure* recognition was thus at length consummated. Aside from the stipulation contained in the majority of these Hispanic treaties concerning the collection of private and public debts, perhaps their most significant features were those which indicated the desire of the contracting parties to foster their commercial intercourse and to consider themselves as related by ties of kinship. The tardy recognition of the Spanish-American states by the motherland was indeed a harbinger of that Hispanic movement which aims to link closer and closer together the nations of both hemispheres which use the language of Cervantes.

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